

Campaign funds. A series of questions and answers concerning the income tax treatment of certain expenditures of campaign funds is set forth.

ISSUES

Are certain expenditures of campaign funds - expenditures for an election night party, cash awards to campaign workers, and certain meals provided to campaign workers after the election - expenditures for exempt function purposes within the meaning of section 527 of the Internal Revenue Code, or are the expenditures diversions of such funds and includible in the gross income of the candidate under section 61?

QUESTIONS AND ANSWERS

1. Q. Is a party or celebration given on election night by a candidate's campaign committee for the candidate's campaign workers an exempt function activity under section 527(e) (2) of the Code?

A. Yes. Section 1.527-2(c)(1) of the Income Tax Regulations defines an 'exempt function' to include all activities that are directly related to and support the process of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to public office or office in a political organization (the selection process). A party or celebration that is held on election night by the candidate's campaign committee for the candidate's campaign workers is an inherent part of, and the traditional public culmination of, the selection process. Such party or celebration expenditures are thus exempt function expenditures.

2. Q. Are cash awards made to campaign workers after the election exempt function expenditures under section 527(e) (2) of the Code?

A. Yes. If the amount of the award to each campaign worker is reasonable, considering the exempt function services rendered by the worker and the amount of other compensation, if any, already paid to the worker, the awards are an exempt function expenditure in the nature of compensation for services related to and in support of the campaign selection process.

3. Q. Are the cash awards includible in the recipients' gross incomes under section 61 of the Code?

A. Yes. If the recipients are employees of the campaign committee or the candidate, the amount received is includible in the recipients' gross incomes under section 61

of the Code as additional compensation for services rendered. If the recipients are unpaid volunteers, the amount received is also includible in their gross incomes under the broad language of section 61.

4. Q. During a legislative session shortly after the election, several members of an elected official's campaign staff (employees of the official rather than employees of the government) work through lunch on a specific legislative item. The official sends out for sandwiches that are paid for with money that, but for the issue presented here, would be treated as excess campaign funds within the meaning of section 1.527-5(c) of the regulations. Is the cost of the food an exempt function expenditure under section 527(e)(2) of the Code?

A. No. Under section 1.527-2(c)(1) of the regulations, an 'exempt function' includes all activities that are directly related to and support the selection process. Work on legislative items is part of an elected official's trade or business and is not part of the selection process. Therefore, the use of campaign funds to pay an elected official's trade or business (including office) expenses is not an exempt function expenditure. See section 1.527-2(a)(3)(ii) of the regulations.

5. Q. Is the cost of the food includible in the elected official's gross income under section 61 of the Code?

A. Yes. The cost of the food is includible in the elected official's gross income under section 61 of the Code because, under section 1.527-5(c) of the regulations, excess campaign funds are generally treated as expended for the personal use of the person having control over them unless, within a reasonable period of time, they are transferred or held for use as specified in that section. The expenditure of excess campaign funds for food consumed in connection with work on a legislative item is not one of the uses specified in the regulations as an exception to the personal use, nonexempt function treatment set forth in section 1.527-5(c).

Whether and to what extent the expenditure is allowable as a deduction by the elected official is determined under section 67 (2-Percent Floor on Miscellaneous Itemized Deductions), section 162 (Trade or Business Expenses), and section 274 (Disallowance of Certain Entertainment, etc., Expenses).

DRAFTING INFORMATION

The principal author of this revenue ruling is M. L. Meretsky of the Individual Tax Division. For further information regarding this revenue ruling contact Mr. Meretsky on (202) 566-3381 (not a toll-free call).